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Current Topics.

Law Dictionaries.

A STORY has come down to us from a bygone generation of a student who, painfully anxious to be grateful for all his mercies, was overheard at his devotions giving thanks for the makers of dictionaries. Not always is the gratitude we owe for the labours of lexicographers expressed with the like ardour, but if we think of Dr. JOHNSON and his successors and what they have done for us in the elucidation of words we begin to realise our indebtedness to their unflagging zeal and learning. What is true of English dictionaries is true also of law lexicons which most of us find of great utility in the provision in compressed form of a précis of the law on which we may for the moment be engaged. Quite recently in the House of Lords one of these dictionaries, copies of which have become rare, was cited and found extremely apt. In this connection an observation by Mr. ROLAND WILLIAMSON in his interesting little book on the "Law Library of the Capitol, Washington, D.C.," is much to the point, namely, that "a law dictionary is not to be despised because of its age. Sometimes a long search for an elusive word ends successfully in an old dictionary."

Agriculture (Misc. War Provisions) (No. 2) Act.

THE Agriculture (Miscellaneous War Provisions) (No. 2) Bill received the Royal Assent on 22nd August. The general nature of the measure has already been indicated in these columns from the Minister of Agriculture's statement in the House of Commons on second reading. A number of useful amendments were introduced in the House of Lords and subsequently approved by the House of Commons. One of these consists of a new clause restricting the remedies conferred by local Acts for the recovery of drainage rates. Mr. T. WILLIAMS, the Joint Parliamentary Secretary to the Ministry of Agriculture, explained the object of the clause when the Lords' amendments were being considered by the House of Commons some ten days ago. Its object, he said, was to deal with a situation which had arisen in certain parts of the country where it was impossible to let farms owing to the existence of heavy burdens in the form of arrears of drainage rates which would-be tenants were unwilling or unable to shoulder. He recalled that under s. 31 of the Land Drainage Act, 1930, drainage rates were recoverable by drainage boards in the same way as other rates were recoverable under the Rating and Valuation Act, 1925—by distress levied on goods or chattels belonging to the occupier. There were, however, in certain areas local Acts dating back to the end of the eighteenth century under which drainage boards were entitled to recover arrears by distress levied on goods belonging to any occupier of the land, irrespective of whether that person was in occupation at the time when the rate was made. The effect of the new clause was to put those boards in the same position as the other boards and leave them with the same remedy under s. 31 of the Act of 1930. The clause provides that notwithstanding anything in any local Act or in s. 31 (5) of the Land Drainage Act, 1930 (which contains a saving for the powers conferred by any local Act in relation to arrears of drainage rates), no distress for arrears of any rate made under the Land Drainage Act, 1930, shall be levied after the commencement of the Agriculture (Miscellaneous War Provisions) (No. 2) Act on the goods or chattels of any person other than the person from whom the arrears may be recovered by virtue of s. 31 (1) of the Act of 1930, and that no proceedings, whether by action or otherwise, for the enforcement of any charge on land for securing payment of arrears of any such rate created by any local Act shall be commenced after the commencement of the new Act. Mr. WILLIAMS intimated that the new clause had been introduced only because land was available for cultivation of which no one was willing to become tenant unless the arrears of drainage rates were dispensed with. The new clause dealt with the new tenant only. Drainage boards which had imposed drainage rates in the past and had failed to collect them from the tenants at the time when the rates were imposed would either have to collect them from those tenants or would not be able to collect them at all. The course to be taken would be a matter for the board to determine, but the speaker imagined that in most cases the arrears would be wiped out completely.

Fen Land.

OTHER amendments demanding brief mention relate to cl. 2 which, as was explained in our previous note on the subject, enables grass roads over certain fen land to be made into hard roads at the expense of the Government and through the war agricultural executive committees, provision being made for the recovery of the expense from the owners on the basis of the enhanced value of the land. One of the amendments which has been incorporated enlarges the powers conferred by the section so as to include the drainage of such fen land. Mr. WILLIAMS indicated that since the clause was drafted it had been found that, in addition to making up roads, it would be necessary in some cases to execute drainage works as well. If these works were carried out by the drainage boards concerned, the cost would be recoverable from occupiers of the land by means of drainage rates, and it was only reasonable that, if such works were carried out at public expense, the cost should be recoverable subject to the limitation contained in the measure. The areas to be dealt with would be a comparatively small number. At present only one large scheme was to be undertaken, and any supplementary scheme would be effectively dealt with once the war executive committee considered that such work was necessary to improve the productivity of the land. In the course of a discussion of an amendment to the effect that the expression "fen land" should be "construed generally and not as limited to land in that part of England commonly known as 'the Fens,'" Mr. J. MORGAN, while approving the Minister's acceptance of an amendment enlarging the scope of the measure, urged that nobody should be under any illusions as to the responsibility which it placed upon war agricultural committees. It meant that after the war they would remain in substantial charge of road work and would have to collect the charges. "We may find," he said, "that there has grown up a whole series of private roads held by private owners who are paying the charges levied upon them under these schemes.

We have been trying to break down the private road system, but we may find that we have built up a whole new series of private roads. I should prefer to have seen the highway authorities charged with the job, but, at any rate, I should like to know exactly what is the limit of the enlarged term, and which war agricultural committees are likely to be involved in this business." In reply, Mr. WILLIAMS said that the category of land in mind was clearly fen land, but the difficulty of definding fen land was extreme. In Lincoln fen land was called "fen," in Somerset it was called" moor," in Essex it was called "marsh"; and there might be other terms in other parts of the country. But the Ministry had in mind strictly limited areas for action under cl. 2. The areas were well defined. The work would involve little or no responsibility upon war agricultural executive committees, and the Minister himself would direct action on advice from engineers, local authorities and others concerned in those special and extremely limited areas. "Although," he said, "we hope that the work to be undertaken will restore good land to first-class fertility, we shall not be making private roads all over the country comparable with the toll roads which did exist all over the country and which we are now engaged in getting rid of." Mr. WILLIAMS, in reply to a further question, admitted that the interpretation of "fen land" would rest "almost absolutely" with the Minister.

Personal Injuries (Civilians) Scheme.

THE Minister of Pensions was recently asked in the House of Commons whether compensation under the Personal Injuries (Civilians) Scheme, 1940, as administered by his department, would be paid to workers injured by enemy action who had been permitted or encouraged to continue work after an air-raid warning had been sounded, and whether, in similar circumstances, any liability attached to the employer. In reply, Sir WALTER WOMERSLEY stated that workers who had been permitted or encouraged to continue work in the circumstances indicated would not by so doing prejudice their claims under the scheme in respect of any war injuries they might sustain. With regard to employers, the relief given by the Personal Injuries (Emergency Provisions) Act, 1939, in respect of war injuries sustained by their employees was not affected by the fact that the employees might be permitted to continue their work after the sounding of an air-raid warning. The Minister was further asked (1) whether a factory worker who, while continuing urgent necessary work after an air-raid warning had been sounded and external lighting had been extinguished, received an injury due to accidentally falling or striking against some object as a result of those black-out conditions, was entitled to an allowance under the Personal Injuries (Civilians) Scheme; and (2) whether a factory worker who, while proceeding to an air-raid shelter after an air-raid warning had sounded and enemy aircraft were overhead, either dropping bombs or not, received an injury by accidentally falling or striking against some object in the factory, was entitled to an allowance under the scheme. The Minister of Pensions intimated that it was not possible to give a categorical reply to hypothetical questions, but added that while, ordinarily, accidental injuries sustained during black-out conditions would clearly not of themselves be within the statutory definition of war injuries, each case would have to be determined in the light of its individual circumstances.

War Damage: Compensation.

THE Chancellor of the Exchequer was recently asked in the House of Commons whether he would issue a code of instructions so that householders who had suffered destruction or damage to their homes by enemy action might claim compensation from the Government for immediate repair or replacement of their damaged property, or alternatively, whether he would consider a scheme of national insurance whereby householders might mutually insure their property against destruction or damage by enemy action, so that their homes might be rebuilt without delay. Sir KINGSLEY WOOD, in reply, recalled the main features of the Government's scheme for compensation for war damage to property which was announced on 31st January, 1939, and with which readers will be familiar. He stated that provision had also been made in the Housing (Emergency Powers) Act, 1939, and the Essential Buildings and Plant (Repair of War Damage) Act, 1939, for essential repairs, the cost being met by Government loans. Arrangements, he added, had further been made whereby advance payments of compensation up to limited amounts would be available in respect of damage to essential household furniture, where the total income of the claimant's household did not exceed £400 a year, and in respect of damage to personal clothing where the total income of the claimant did not exceed £250 a year if there were no dependents or £400 a year if there were dependents. The Chancellor of the Exchequer went on to say that those whose property had suffered damage should make a claim for compensation on a form which could be obtained in Great Britain at the local town hall or office of the local authority or of the office of the local district valuer, Inland Revenue Department. Those desiring to take advantage of the arrangements for advances in respect of damaged furniture or clothing should apply to the local officer of the Assistance Board. It was stated in conclusion that the preparation of a leaflet drawing attention to these various arrangements was in hand.

Missing on Active Service: Inquiries.

A FEW weeks ago we drew attention to the valuable work capable of being performed by solicitors in connection with the functions of the War Organisation of the British Red Cross and the Order of St. John of Jerusalem directed to searching for the missing, making inquiries for the wounded, and arranging for visits of relatives to those in hospital on the "dangerously ill" list. Our information, as was duly recorded at the time, was derived from "The Law Society's Gazette." Our contemporary in the current issue states that the Council of The Law Society has been informed by the War Organisation of the British Red Cross Society and the Order of St. John of Jerusalem that the numbers of searchers for the missing who have been enrolled is now ample for the work available, as owing to the evacuation of all British troops from France there is a tendency for the amount of work involved to decrease.

Rules and Orders: Supreme Court.

THE attention of readers is drawn to the Rules of the Supreme Court (No. 5), 1940, and the Rules of the Supreme Court (Shorthand-writers), 1940. The former, which are set out on p. 515 of the present issue, provide for the insertion in the Rules of the Supreme Court, 1883, of a new Order (LIVJ) in regard to applications to the High Court under para. (4) of reg. 18AA of the Defence (General) Regulations, 1939. Regulation 18AA relates to the control and winding up of organisations subject to foreign influence and control. Applications are to be made in the Chancery Division by originating summons *inter partes*. In the absence of other sufficient representation the Official Solicitor may be appointed to represent any interests which in the opinion of the court or judge ought to be represented on any inquiry directed under the said paragraph. The latter rules above referred to provide for the insertion in the Rules of the Supreme Court of a new Order (LXVIA) dealing with official shorthand notes. These rules are self-explanatory and are obtainable from H.M. Stationery Office, price 2d. net. It is unnecessary, therefore, to deal with them further here. An authorised notice concerning the supply of free transcripts is appended to the rules.

Recent Decisions.

IN *Re Lees* (*The Times*, 23rd August) a Divisional Court (HUMPHREYS, OLIVER and CROOM-JOHNSON, JJ.) refused an application that the court might order that a writ of *habeas corpus* should be issued, directed to the Home Secretary, to have the applicant before the court for the consideration of all necessary matters concerning his detention. The applicant had been detained under reg. 18B (A) of the Defence (General) Regulations, 1939.

In *The King* v. *Wright* (*The Times*, 27th August) the Court of Criminal Appeal (HUMPHREYS, TUCKER and OLIVER, JJ.) dismissed the appeal of one who was convicted (before STABLE, J., at Lewes Assizes) for the murder of his wife.

In *The King* v. *Marie Louisa Auguste Ingram*, and *The King* v. *William Swift* (*The Times*, 27th August) the Court of Criminal Appeal (HUMPHREYS, TUCKER and OLIVER, JJ.) dismissed applications for leave to appeal against convictions at the Central Criminal Court of a conspiracy with other persons to do acts likely to assist an enemy, or to prejudice the public safety, the defence of the realm or the efficient prosecution of the war, and of doing acts of that character.

In the *Duke of Lancaster* (*The Times*, 27th August), where the plaintiffs sought a decree of limitation of liability in respect of the damages arising out of the collision between their steamship (previously found by the court to be solely to blame) and the defendants' steamship, LANGTON, J., pronounced for a declaration to the effect that on payment into court of an amount representing £8 per ton on the registered tonnage further proceedings might be stayed. One of the crew of the defendants' ship had lost his life and his lordship intimated that it was not necessary for the plaintiffs to give bail to meet this claim.

Finance Regulations.

Consolidation and Amendments.—I.

As a result of recent developments of the war, we are faced with new regulations and orders dealing with the control of financial operations. The object of the control remains the same, to wit, the protection and support of the sterling system. Several of the orders are of a consolidating nature, revoking the previous mass of now almost incoherent orders and replacing them by a systematically set out piece of legislation. Certain alterations have been made, emphasising the importance of the sterling area and of the freedom of financial operations within this area. Several paragraphs, also, give additional powers of control in order to deal with points which had been omitted from the earlier orders.

This " code " is to be found in S.R. & O., 1940, No. 1254, an Order in Council which substitutes new regulations 3 to 3E for regulations 3 to 3C of the Defence (Finance) Regulations, 1939, and was made on the 17th July, 1940, and in the amending Order (S.R. & O., 1940, No. 1484), which was made on the 15th August, 1940. Many of the old paragraphs have been re-enacted and re-appear in the new regulations. When this is the case, reference will be made to the previous articles in THE SOLICITORS' JOURNAL for a fuller description of their significance and effect.

Restrictions on the Export of Currency, Gold, Securities, etc.

This topic is now dealt with in reg. 3. Paragraph (1) prohibits the taking or sending out of the United Kingdom any banknotes, postal orders, gold, securities or foreign currency, subject to any exceptions to be granted by order of the Treasury. Exemptions have been granted by the Treasury, in the case of travellers, by the Currency Restrictions (Travellers Exemption) Order, 1940 (S.R. & O., No. 1267), which re-enacts the exemption previously allowed to travellers (84 SOL. J. 328). Paragraph (2) deals with the departure of the traveller from the United Kingdom, the declaring by him of the banknotes, gold, securities, etc. he has with him, the production of them to the appropriate officer, and the right of search for and seizure of them, if necessary. A new right to go on board any ship or aircraft in order to exercise these powers is given to the appropriate officer by reg. 3 (3) and the latter part of reg. 3 (4). The definition of security for the purpose of this regulation has been slightly enlarged by reg. 3 (7) (*a*), which adds, to the various documents previously included, a life or endowment insurance policy and any document of title relating to any security.

Restrictions upon the Transfer of Securities.

The new reg. 3A dealing with this matter replaces the old reg. 3A. Several points are worthy of comment. Whereas the old regulation forbade their transfer outside the United Kingdom and the Isle of Man, which territory was extended by the Currency and Securities Restriction Exemptions (No. 1) Order, 1940 (S.R. & O., No. 710) to the sterling area, the new reg. 3A recognises the sterling area as the territory in which transfers can freely take place. The transfer of securities from one register to another is dealt with by para. (2). Sub-paragraph (2) (*c*) prohibits, except with permission of the Treasury, an address outside the sterling area being registered in respect of any security, in any register or book in which securities are registered or inscribed. To this there is a general exception allowed by the order, as amended by S.R. & O., 1940, No. 1484. The address may be changed by way of substitution for another such address in the same currency area. Two places are to be deemed to be in the same currency area if there is a currency, at both places, which is legal tender for any amount. The exception, therefore, is narrower than it was in the old reg. 3A. Paragraph (5) reproduces the enlarged list of persons entitled, under para. (1), to make an agreement for the transfer of securities. This list was first enlarged by S.R. & O., 1940, No. 1160, which added to the first list of such persons the members of several other associations of stockbrokers and dealers (84 SOL. J. 339, 340, 352).

Restrictions upon the Issue of Documents of Title to Securities.

The old reg. 3B (84 SOL. J. 340) has been revoked by the new reg. 3B, which replaces it in identical words with the addition of a new paragraph. By this new para. (3) coupons representing dividends or interest are to be deemed to be documents of title by the delivery of which a title to an interest in securities is transferable.

Restrictions on Payments.

The old reg. 3 (1), which dealt with various matters, has now been split up and its sub-paragraphs relegated to their appropriate places in the new regulations. As we have seen, the old reg. 3 (1) (*a*) now forms part of the new reg. 3. The old reg. 3 (1) (*aa*), which had already been transferred to reg. 3A, remains there and deals with the transfer of securities.

The new reg. 3C (1) prohibits, subject to exceptions granted by the Treasury, the drawing, issuing or negotiating of a bill of exchange or promissory note or the acknowledging of any debt, so that a right (either actual or contingent) to receive a payment in the United Kingdom or the Isle of Man is created or transferred in favour of a person outside the sterling area. This regulation reproduces and takes the place of the old reg. 3 (1) (*ab*) as relaxed by the Currency Restrictions Exemption (No. 4) Order, 1939 (S.R. & O., No. 1843), and the Currency and Securities Restriction Exemptions (No. 1) Order, 1940 (S.R. & O., No. 710), all of which regulations and orders have now been revoked (84 SOL. J. 328, 352).

The new reg. 3C (2) deals with similar transactions, the drawing, issuing and negotiating of bills of exchange, etc., so that a right (either actual or contingent) to receive a payment in the United Kingdom or the Isle of Man is created or transferred in favour of a person *not* resident outside the sterling area as consideration for, or in association with :—

1. the receipt by any person of a payment, or the acquisition by any person of property, outside the sterling area, or

2. the creation or transfer, in favour of any person, of a right (either actual or contingent) to receive a payment, or acquire property, outside the sterling area,

or the making of any payment to such person for the consideration as aforesaid, or in association with such consideration. This takes the place, to some extent, of the old reg. 3 (1) (*b*) as relaxed by the two previously mentioned exemption orders (84 SOL. J. 328, 352). It might be noted that the regulation itself now allows such transactions to take place within the sterling area, but that, as regards other territory, they are prohibited not only when carried out as consideration for the payment or acquisition of property as aforesaid, but also when carried out in association with such payments or acquisition of property. The recently introduced method of restricting and controlling payments to persons outside the sterling area (84 SOL. J. 436) seems to have been, in the main, retained but the mechanism of carrying it out by means of the old reg. 3C (1) and the various Defence (Finance) (Restriction of Payments) Orders, 1940 (S.R. & O., Nos. 895, 943, 964 and 1039) has been abandoned, these orders having been revoked. The new reg. 3C (1) is stated to be subject to any exemptions which may be granted by order of the Treasury. Such exemptions have been granted by the Regulation of Payments (General Exemptions) Order, 1940 (S.R. & O., No. 1257) together with the Regulation of Payments (General Exemptions) (Amendment) Order, 1940 (S.R. & O., No. 1346). Any payment or transfer of the type in question, being a transfer of the right to receive a payment in the United Kingdom in favour of a person outside the sterling area, by a person outside this area to a person outside this area, is exempted from the restrictions of reg. 3 (C) (1) unless the country outside the sterling area, to which the transfer is to be made, is one mentioned in the schedules to the orders. These countries are the Argentine Republic, the Belgian Congo and Ruanda-Urundi, Brazil, Canada and Newfoundland, the territories under the sovereignty of France and French mandated territory, the Dutch East and West Indies, Roumania, Sweden, Switzerland, the U.S.A. and its territories, the Portuguese Empire and Hungary. A series of orders has been issued setting out restricted modes in which payments and transfers may be made to the above countries, other than those under the sovereignty of France. These orders are the Regulation of Payments Orders, 1940 (S.R. & O., Nos. 1258 to 1266), which apply to the Argentine, the Belgian Congo and Ruanda-Urundi, Brazil, Canada and Newfoundland, the Dutch East and West Indies, Roumania, Sweden, and the U.S.A. respectively, also No. 1347 applying to the Portuguese Empire and No. 1348 to Hungary.

The modes of payment allowed are various in nature, there being eight different types of them. These are :—

1. Payment by means of a Treasury Special Account. This is a method which may be adopted when no agreement is in force between the United Kingdom and the territory in question. It was first introduced by the old regs. 3C (2) (*b*), 3C (3) and 3C (4), which have been revoked and replaced in similar terms by the new reg. 3D, paras. (1), (2) and (3). Details of these special accounts have been previously described (84 SOL. J. 436). They are available in the case of payments to the Argentine, Brazil, Roumania, Sweden, the Portuguese Empire and Hungary.

2. An exemption such as is described in para. 2 (*b*) of the " Argentine Republic " Order, S.R. & O., No. 1258. This allows the transfer of the whole or any part of a credit in a bank in the United Kingdom, belonging to a person resident in the country in question, to the account in such a bank of another person resident in that country. In this way debts between the two persons resident abroad are set off against one another, without sterling being sent out of this country.

This method is applicable to the Argentine, the Belgian Congo and Ruanda-Urundi, Brazil, Canada and Newfoundland, the Dutch East and West Indies, the Portuguese Empire and Hungary.

3. Express permission of the Treasury.—This mode of payment may be adopted in the case of the Belgian Congo and Ruanda-Urundi, Canada and Newfoundland, and the Dutch East and West Indies.

4. A registered account.—Payment through such an account can be made in the case of Switzerland and the U.S.A. Though the orders are somewhat obscure, such an account would seem to be similar to the Treasury Special Account kept at the Bank of England, but in this case kept at any bank in the United Kingdom and registered at the Bank of England for this purpose.

5. Payment in the currency of the country in question, bought after the 3rd September, 1939, from an authorised dealer at the official rate of exchange. This is one of the devices adopted to curtail the operations of the free market in sterling. Payments can be made in this way to Sweden, Switzerland, the U.S.A., the Belgian Congo and Ruanda-Urundi, Canada and Newfoundland, and the Dutch East and West Indies.

6. Payments in the currency of the country in question exempted by the Treasury from acquisition by them under reg. 5, so long as the conditions imposed are complied with. This method also is applicable to the same countries as under 5 (above).

7. In the case of Roumania, payments under the special mechanism of the Anglo-Roumanian Clearing Office (84 Sol. J. 436).

8. Payments to the credit of a sterling area account of the country in question. The orders go on to explain, in a very enlightening manner, that a sterling area account is an account recognised by the Bank of England as a sterling area account. This method is applicable in the case of the Argentine, Brazil, Switzerland, the U.S.A., the Portuguese Empire and Hungary.

Certain of these orders contain a further paragraph dealing, under the powers conferred on the Treasury by reg. 5B, with the export of goods from the United Kingdom to the particular country and the payment for the same. These are the orders made with reference to the Argentine, Brazil, Roumania, Sweden, Switzerland, the U.S.A., the Portuguese Empire and Hungary. In these cases payment may be made in sterling obtained from the Treasury special account (in the case of Switzerland and the U.S.A. obtained from the appropriate registered account). In the case of Roumania, payments may also be made in sterling obtained from the account recognised by the Anglo-Roumanian Clearing Office (84 Sol. J. 437). Payments from Sweden, Switzerland and the U.S.A. may also be made in Swedish kronor, Swiss francs or American dollars. Further, in the case of Switzerland and the U.S.A., payments may be made in francs or dollars obtained after the 3rd September, 1939, from an authorised dealer in foreign currency.

Regulations as to Residents.

The question of residence is dealt with by reg. 3C (3), which is an entirely new one. A person who, since the beginning of the war, has at any time been resident in the United Kingdom or the Isle of Man, shall for the purposes of this regulation and any orders made under it be deemed to be still resident in the United Kingdom or the Isle of Man until the Treasury otherwise direct. When such direction is given, the Treasury may declare the territory in which he is then to be treated as being resident.

Regulation 3C (4) takes the matter still further and deals with persons to whom para. (3) does not apply. This seems somewhat obscure. Regulation 3C (3) would appear to apply to persons who had been resident in the United Kingdom or the Isle of Man and have since left; reg. 3C (4) might, therefore, apply to persons resident in the United Kingdom or the Isle of Man and who have not left those places. It, more likely, applies to persons who have not, since the 3rd September, 1939, resided in the United Kingdom or in the Isle of Man. By this regulation the Treasury may give directions declaring the territory in which they are to be treated as being resident for the purpose of this regulation and any orders made under it.

Another new matter—the problem of a body corporate resident outside the sterling area but having a branch inside the sterling area—is dealt with in reg. 3E (2). By sub-para. (2) any transaction with such a branch situate inside the sterling area shall be treated as if the branch were a separate body corporate resident where the business of the branch is carried on. The making of a book entry or of any statement recording a debit against the branch in the sterling area in favour of the head office or of a branch outside the sterling area is according to reg. 3E (2) (*b*) to be regarded as the acknowledgment of a debt whereby a right is created in favour of a person resident outside the sterling area to receive a payment at a place within the sterling area.

The sterling area is redefined in the same terms as before by the Defence (Finance) (Definition of Sterling Area) Order, 1940 (S.R. & O., No. 1256) (84 Sol. J. 328).

Criminal Law and Practice.

The Defence of Provocation.

The Court of Criminal Appeal recently substituted a verdict of manslaughter for one of murder, and reduced the sentence of death to one of penal servitude for fifteen years, on the ground that the judge had omitted in his summing-up to direct the jury that on the facts of the case there might be a question whether there was provocation (*R.* v. *Cobbett*, *The Times*, 13th August, 1940).

The facts were that a police officer found the appellant lying on the grass in a public park near a gun emplacement. He was writing on a piece of paper, and the police officer took the paper away from him. As it was quite an innocent document, the police officer handed it back to the appellant, who then got up. What happened next was the subject of conflicting evidence, but the appellant certainly stabbed the officer in the thigh and he died the next day. There was some evidence that the stabbing did not take place until the police officer had struck the appellant with his truncheon, hitting him on the shoulder. In giving the judgment of the court allowing the appeal, Mr. Justice Humphreys said that the judge had, in his summing-up, omitted to mention the possibility that if the officer was not at the material time acting in the lawful execution of his duty, it might, on the facts, be a question whether there was provocation.

It is not every type of provocation that will suffice to reduce the crime of murder to that of manslaughter. "Words of reproach," says Sir Michael Foster ("Crown Law," p. 290), "how grievous soever, are not a provocation sufficient to free the party killing from the guilt of murder. Nor are indecent provoking actions or gestures expressive of contempt or reproach, without an assault upon the person. This rule, will I conceive, govern every case where the party killing upon such provocation maketh use of a deadly weapon, or otherwise manifesteth an intention to kill, or to do some great bodily harm."

With regard to homicide on slight provocation he said (p. 291): "If it may be reasonably collected from the weapon made use of, or from any other circumstance, that the party intended to kill, or to do some great bodily harm, such homicide will be murder. The mischief done is irreparable, and the outrage is considered as flowing rather from brutal rage or diabolical malignity than from human frailty; and it is to human frailty, and to that alone, the law indulgeth in every case of felonious homicide."

This statement has been substantially borne out by subsequent cases. Lord Mansfield in *R.* v. *Taylor*, 5 Burr. 2793, and Pollock, C.B., in *R.* v. *Sherwood* (1844), 1 Car. and Kir. 556, both declared that no provocation by words alone would reduce the crime of murder to that of manslaughter. The latter judge added that it was equally true that every provocation by blows would not have this effect, particularly when, as in that case, the prisoner appeared to have resented the blow by using a weapon calculated to cause death. "Still, however," he continued, "if there be a provocation by blows which would not of itself render the killing manslaughter, but it be accompanied by such provocation by means of words and gestures as would be calculated to produce a degree of exasperation equal to that which would be produced by a violent blow, I am not prepared to say that the law will not regard these circumstances as reducing the crime to that of manslaughter only."

In earlier times much greater allowance was made for provocation and it was even suggested by one writer that jostling in the street might be a provocation (1 Hale 455). A very exceptional case of words which might amount to provocation is that of an admission of adultery by a wife, followed by an immediate act of violence by her husband (*R.* v. *Rothwell*, 12 Cox 145). Blackburn, J., in summing up in that case, said: "Now what you will have to consider is, would these words, which were spoken just previous to the blows, amount to such a provocation as would, in an ordinary man, not in a man of violent or passionate disposition, provoke him in such a way as to justify him in striking her as the prisoner did?" See also 83 Sol. J., p. 4. Even this, however, might not be sufficient provocation if the parties to the marriage had been separated for so long an interval that an ordinary husband would not be justified in striking his wife on such an admission.

Provocation might be defined as that which makes the reasonable man unreasonable. The term "reasonable man," which has suffered much good-natured criticism from such humorists as Mr. A. P. Herbert in connection with the law of civil liability for negligence, re-appears in the language of judges in considering this question. Keating, J., in *R.* v. *Welsh*, 11 Cox C.C. 336, pointed out that the onus of showing sufficient provocation rested on the accused, whose object is thereby to negative the presumption of malice aforethought raised by the proof of intentional killing. "The law is," he said, "that there must exist such an amount of provocation as would be excited by the circumstances in the mind of a reasonable man, and so as to lead the jury to ascribe the act to the influence of that passion. . . . The law contemplates the case of a reasonable man, and requires that the provocation shall be such as that such a man might naturally be induced, in the anger of the moment, to commit the act."

It was submitted in *R.* v. *Lesbini* [1914] 3 K.B. 116, that this statement of the law was not exhaustive, and where, short of any medical evidence of insanity, there was defective control and lack of balance, somewhat less provocation sufficed to justify killing and reduce it to manslaughter. The retort of Avory, J., puts the fallacy in this argument very succinctly: "It would seem to follow from your proposition that a bad-tempered man would be entitled to a verdict of manslaughter where a good-tempered one would be liable to be convicted of murder." Lord Reading, C.J., in approving the statement of law in *R.* v. *Welsh* (above), said: "This court is certainly not inclined to go in the direction of weakening in any degree the law that a person who is not insane is responsible in law for the ordinary consequences of his acts."

In the recent appeal there was doubt as to whether the police officer struck the appellant in the course of his duty. An instructive case on this is *R.* v. *Hagan* (1832), 8 C. & P. 167. The charge was one of wounding with intent to murder, and the victim of the attack was a police constable. He said that he was on duty in East Smithfield at 11.30 p.m. when he saw the prisoner playing the bagpipes in the street. He had collected a large crowd about him, among whom were some prostitutes and thieves. After asking the prisoner to move on, the police officer slightly pushed him. The prisoner then slashed the constable's face with a razor. Coltman, J., in summing up, said that the policeman did not appear to have done anything more than his duty as a police officer warranted him in doing. He added that such slight provocation would not justify an attack with a dangerous weapon. As there was some independent evidence that the policeman had knocked the musician down, the jury found the accused not guilty of the felony, but guilty of an assault.

There is a slight contradiction in this statement of Coltman, J., because the law is that if a police officer or other person clothed with authority commits in the course of his duty what would otherwise be an assault, such an act cannot amount to provocation. In *R.* v. *Hems*, 7 C. & P. 312, a police constable was sent late at night to clear a beer-house. One of the persons there refused to leave, and used threatening language. The constable laid a hand on his shoulder gently, and told him to go away, on which he stabbed the constable in the throat with a knife. Williams, J., told the jury that the policeman was entirely justified in using a degree of violence to push him from the place, "and therefore anything which he did would not be in the nature of an assault, but would be an act in the discharge of his duty, and therefore any blow that was given afterwards by a cutting instrument, would be precisely the same as if it had been given without anything being done by the policeman."

These are only a few of the points that may arise in examining this extremely interesting defence, and questions such as the lapse of time since the provocation, provocation during a quarrel, and provocations other than assault, must be left for future consideration.

A Conveyancer's Diary.

Legacies for Animals.

"THE brute creation," as it was called by Swinfen Eady, J., in *Re Wedgwood* [1915] 1 Ch. 113, 122, are not legal personæ, unlike bodies corporate or individuals, and so cannot own property in this country, though the Emperor Caligula's horse was given high judicial and civic office in ancient Rome. A legacy to the testator's dog or cat would therefore be null. But animals may be the beneficiaries under trusts. Thus, in *Re Dean*, 41 Ch. D. 552, the testator gave to his trustees an annuity of £750 and also gave them eight horses and ponies and a kennelful of hounds. The £750 a year was charged upon the realty settled by his will in priority to all other charges and was to endure for fifty years from the testator's death, if any of the said horses and hounds should so long live. Then followed a mandatory direction that the £750 a year should be applied in maintaining the horses and hounds for the time being living, and the stables, kennels and buildings were to be maintained so far as the trustees saw fit. The trustees were not to be liable to account for the application of the annuity; there were also some subsidiary directions, as, for example, that the horses and ponies were not to be worked. The testator also gave directions for the killing with a double-barrelled shot-gun of any equine beneficiary which the trustees saw fit, there being no corresponding provision for the dogs. This trust was held to be good by Norton, J., who largely relied on an earlier similar case (*Mitford* v. *Reynolds*, 16 Sim. 105). It was argued among other things that a trust is necessarily bad if there is no beneficiary who can enforce it. This view rests on a very strict interpretation of the maxim that equity acts *in personam*, from which it could be said to follow that if there is no one in a position to invoke the court to compel execution of the trust, the trust is no trust. Such a view was supported by a passage in the then current (eighth) edition of "Lewin." The learned judge said that he had no doubt that it was wrong; there is nothing illegal in leaving property on trust for the erection of a tombstone, or even for the maintenance of a tombstone for a period within the perpetuity rule. But there is no *cestui que trust* who can directly enforce such a trust. The same considerations apply to trusts for animals. But in this the court has not deviated from its wholesome rule of avoiding the recognition of rights which are not supported by remedies. The remedy lies in the hands of the person entitled to the fund upon failure of the trust for the animals; such person may, of course, be designated by the will, or alternatively, there may be a resulting trust. In *Re Dean* the court said that so much of the £750 a year as was not used for the animals fell either to the residuary devisee or the heir-at-law, but did not determine to which of them. Similarly, in *Re Thompson* [1934] Ch. 342, the testator gave £1,000 to X to be applied in such manner as he should in his absolute discretion think fit towards the promotion and furthering of fox-hunting, and gave his residue to Trinity Hall, Cambridge. The £1,000 legacy was obviously not given to X beneficially; on the other hand, though not charitable, it was given out-and-out, and so could not be attacked for perpetuity. There was nothing to make it illegal, but, on the other hand, it would be difficult to say who was the *cestui que trust* among the various human beings and lower animals who enjoy fox-hunting. In the circumstances the court ordered that, upon X undertaking to apply the legacy when received towards the object expressed in the testator's will, the £1,000 should be paid to him, the residuary legatees being given liberty to apply in case the undertaking should not be carried out.

The only real objection that has been raised against trusts for the benefit of animals is thus overcome. The trustee holds on a trust which is not illegal; if he does not carry out the trust, the fund goes over at the suit of the person entitled subject to the trust. There is no *cestui que trust* to enforce the trust, but there is a person jealously interested in saying that the trust has not been carried out.

Trusts for the benefit of specific animals are not, however, charitable, and care must be taken in creating them to see that they do not infringe the rule against perpetuities. Trusts for the benefit of animals at large may very well be charitable. In *Re Dean* itself there was a substantial legacy to the R.S.P.C.A., which was in no way challenged. Similarly, in *Re Foveaux* [1895] 2 Ch. 501, a gift to a society for the suppression of "vivisection" was held charitable, and there have been various other such cases, referred to in *Re Wedgwood* [1915] 1 Ch. 113, as, for example, a home for lost dogs. In *Re Wedgwood* itself the residue was given to X upon a secret trust to promote the practice of humane slaughtering. The Court of Appeal held that such a gift was good and charitable. The grounds are best stated by Swinfen Eady, J., at p. 122: "A gift for the benefit and protection of animals tends to encourage kindness towards them, to discourage cruelty, and to ameliorate the condition of the brute creation, and thus stimulate humane and generous sentiments in man towards the lower animals, and by those means promote feelings of humanity and morality generally, and thus elevate the human race." It will be seen that the ground is therefore that by benefiting animals in a given way (as by promoting humane slaughter) one is tending to repress man's innate brutality. The latter is the point which alone makes the gift charitable, since it brings it within the fourth of Lord Macnaghten's famous categories of charities laid down in *Pemsel's Case* [1891] A.C. 583, namely, "trusts for purposes beneficial to the community" other than those mentioned in the first three heads (viz., relief of poverty, advancement of education, advancement of religion). The fourth head is

notoriously vague and difficult to apply, but no more successful definition has yet been found. Whatever else it may or may not involve, it necessarily and invariably requires an element of benefit to the community—i.e., to the human community. Benefit to the brute creation is not enough. This point was clearly brought out by the majority of the Court of Appeal in *Re Grove-Grady* [1929] 1 Ch. 557. The gift there was of a relatively colossal sum (£200,000) for the purpose, *inter alia*, of creating refuges for the preservation of all and sundry the animals and birds which might choose to reside there, free from human molestation. It was pointed out that this gift could hardly be said to be for the benefit of the animals themselves, as in this paradise there would be nothing to stop the full horrors of the struggle for existence dwelt upon by Darwin; but also that even if the difficulty could be got over the trust could hardly be described as being for the benefit of the community, as its terms would to all intents and purposes keep human beings from ever seeing the animal reserves. I ought to add, however, that Romer, J., in the Chancery Division thought differently, and so did Lawrence, L.J. The majority were Lord Hanworth, M.R., and Russell, L.J. The case was compromised in the House of Lords. The reasoning of the majority is certainly logical on the face of it, but there is a good deal of contrary opinion, and one has also to remember that various overseas dominions have, rightly or wrongly, got these animal reserves, which implies that they think them desirable for the community.

Landlord and Tenant Notebook.

Landlord and Tenant as Joint Tortfeasors.

A LANDLORD is liable for nuisance constituted by defects in premises if he has as much as reserved the right to keep them in repair; this was laid down in *Wilchick* v. *Marks and Silverstone* [1934] 2 K.B. 56. This authority was modified by the decision in *Wringe* v. *Cohen* [1940] 1 K.B. 229 (C.A.), when it was held, on the one hand, that the landlord's ignorance or knowledge of the nuisance was irrelevant, but said, on the other hand, that the principle did not extend to nuisances due to latent defects or caused by trespassers. Now, in *Heap* v. *Inde, Coope & Alsopp, Ltd.* [1940] W.N. 277 (C.A.), the main principle has been applied in a case in which landlords were wont to, and were held to have reserved the right to, effect repairs. The possible effect of a lease imposing no liability for repair on either party was pointed out in the "Notebook" of vol. 81, p. 1016, and has thus been illustrated. *Wilchick* v. *Marks* was discussed in two articles, vol. 78, pp. 443, 464; *Wringe* v. *Cohen* in vol. 83, p. 919; there is nothing to be said about the latest decision. But one sentence in the present report might be misleading. The plaintiff—who had fallen into a public-house cellar via a defective cover—sued the lessors and, says the report, "the only material question was whether he had properly sued the defendants, or ought to have sued the tenant."

Now it was held in *Wilchick* v. *Marks* that the liability of the landlord in no way excluded liability of the tenant as occupier, and as the action had in fact been brought against both, judgment was entered against both; the "large property owners," and the "tailor in a small way of business" who was their weekly tenant. And, since then, the Law Reform (Married Women and Tortfeasors) Act, 1935, has been passed, s. 6 of which creates the right of contribution between joint tortfeasors. It is, accordingly, worth discussing first, whether in cases like these s. 6 (1) (*c*) confers the right when landlord and tenant are both liable, and secondly, how contribution is likely to be assessed.

Section 6 (1) (*c*) enacts "any tortfeasor liable in respect of that damage [i.e., damage suffered as the result of a tort] may recover contribution from any other tortfeasor who is, or would if sued have been, liable in respect of the same damage, whether as a joint tortfeasor or otherwise," and it is clear that this covers the circumstances of *Wilchick* v. *Marks*. In *Wringe* v. *Cohen* the landlord alone was sued and he admitted his liability to repair, but this does not mean that his tenant did not answer to the description of "any other tortfeasor who would if sued have been liable," etc. The same applies to *Heap* v. *Inde, Coope & Alsopp, Ltd.* There have been cases since the statute was passed in which claims for contribution have failed on the ground that the other parties concerned were not tortfeasors: *Kubach* v. *Hollands* (1937), 3 All E.R. 907 (dangerous chemical sold for re-sale, with warning); *Johnson* v. *Cartledge and Matthews* (1939), 3 All E.R. 654 (passenger, collision; one driver solely to blame), but the judgment in *Wilchick* v. *Marks* makes it clear that both defendants were guilty of the tort of nuisance.

We have, therefore, one case decided before the law was changed and two in which, as far as reports go, no attempt was made to exploit the change. And when seeking to ascertain the possible effect of a claim, the only guidance, apart from the words of s. 6 (2), is afforded by a couple of cases in which the parties to the tort were not landlord and tenant.

The subsection provides ". . . the amount of the contribution recoverable . . . shall be such as may be found by the court to be just and equitable having regard to the extent of that person's responsibility for the damage; and the court shall have power to exempt any person from liability to make contribution, or to direct that the contribution to be recovered from any person shall amount to a complete indemnity."

In *Burnham* v. *Boyer and Brown* (1936), 2 All E.R. 1165, the plaintiff, an invitee, had fallen into a hole which a contractor, employed by the occupier, had left uncovered. The judgment of Horridge, J., proceeded as follows: "Here the third party was in sole charge of the work. He left the work, apparently having first put up a tarpaulin for the purpose of being a guard, and then took it away and left the hole exposed, so that any person using the yard on business would be extremely likely to fall into the hole. He must contribute to the extent of one-half of the claim." I do not know whether any readers experienced a mild shock on coming to the "one-half"; such, I may say, was my own reaction in view of the "sole charge" and "extremely likely" and the wide powers expressly conferred by the concluding part of the subsection. The point was more closely examined in *Daniel* v. *Rickett, Cockerell & Co. and Raymond* [1938] 2 K.B. 322, when the first defendants, a firm of coal merchants, whose men had failed to fence, or warn passers-by of, an open coal flap, with the consequence that the plaintiff fell into the coal hole, claimed indemnity or contribution from the second defendant, their customer—who claimed the like from them. Fixing the second defendant's contribution at one-tenth, Hilbery, J., said that the effect of the words "just and equitable" coupled with "having regard to the extent of that person's responsibility" was that the court had to do what it thought right between the parties having regard to what it thought was, on the true facts of the case, the fair division of responsibility between them. And while his lordship observed that no householder would in the circumstances think he had much to do with the precautions to be taken in such cases, he had contracted for something to be done which must create a dangerous situation and he had in the eyes of the law some responsibility. (For a case of 75 per cent. contribution, see *Rippon* v. *P.L.A.* (1940), 1 All E.R. 637.)

One might venture the criticism that the "responsibility" in the statute must mean moral responsibility—for legally each tortfeasor is fully responsible. But the real difficulty is, I think, the absence of any indication whether the subsection means responsibility towards the injured party, or responsibility for the cause of injury. This becomes apparent when one seeks to apply such material as there is to the landlord-and-tenant cases—for in these the cause of action is nuisance rather than negligence, and in cases of negligence it is, at all events, easier to distinguish degrees of culpability. The foundation of the rule laid down in *Wilchick* v. *Marks* is a principle enunciated by Abbott, C.J., in *Laugher* v. *Pointer* (1826), 5 B. & C. 547: "I have the *control* and management of all that belongs to my land or my house, and it is my fault if I do not so exercise my authority as to prevent injury to another."

The conclusion one reaches is that a large number of factors are likely to influence the "fair division" in *Wilchick* v. *Marks* types of cases. For instance, ignorance on the part of a landlord has been held, in *Wringe* v. *Cohen*, to be no answer; but surely there would be a strong case for contribution if a defect were long known to the tenant, who omitted to inform the landlord—*a fortiori* if the landlord did not reside anywhere near the premises. Another factor might well be the ease with and expense at which a defect could be remedied (which, of course, is not related to the likeliness or extent of injury it may cause); and, possibly, the quickness with which the respective parties, having regard to their position in life, might reasonably be expected to appreciate the danger inherent in the particular nuisance might fairly be taken into account.

Books Received.

The Effect of War on Contract. By P. H. THOROLD ROGERS, B.A., B.C.L., of the Middle Temple, Barrister-at-Law. 1940. Demy 8vo. pp. vii, 160 and (Index) 171. London: Sweet & Maxwell, Ltd. Price 10s. 6d. net.

Purchase Tax Table, showing tax on amounts to £1,000 at 6s. 8d. and 3s. 4d. in the £. London: Edwards & Smith (London), Ltd. Price 1s. 3d. post free.

Our County Court Letter.

Recovery of Possession of Furniture.

THE above subject has been considered in two recent cases. In *Smith and Wife* v. *Hertman Pianos Ltd.*, at Walsall County Court, the claim was for £25 as damages for trespass. The case for the plaintiffs was that, under a hire-purchase agreement, dated the 4th November, 1938, they had acquired furniture at a cost of £17 5s. This amount was payable by 10s. deposit and 3s. a week. In January, 1940, the payments totalled £6 13s. 6d., which meant that arrears had accumulated. On the 26th January, the defendants' branch manager entered the house, and stated that he had come for the furniture. In spite of the protests of the female plaintiff, two men removed a seven-piece suite, a bedstead and a mattress. On being interviewed next day by the male plaintiff, the manager offered to return the furniture, subject to the payment of a fresh deposit and a guarantee by the male plaintiff. The case for the defendants was that the plaintiffs had had the furniture for fifteen months, and the £6 13s. 6d. had been refunded by payment into court. The evidence of the manager was that he only entered the house by invitation of the female plaintiff. He had no intention of removing the furniture until he was told to do so, in response to his request for payment of the arrears. The consent of the hirer therefore rendered it unnecessary to obtain the leave of the court to resume possession of the property. His Honour Judge Caporn gave judgment for the plaintiffs for the amount claimed, with costs.

In *Gardner and Wife* v. *George Hopkinson, Ltd.*, at Birmingham County Court, the claim was for £14 as money had and received and £25 as damages for trespass. The case for the male plaintiff (a soldier) was that his furniture had been obtained under a hire-purchase agreement, entered into by his wife, and he himself was the guarantor. The goods were valued at £28 15s., and £14 had been paid up to August, 1939, when his wife was removed to an institution owing to illness. The male plaintiff then went to live with his mother, leaving his own house (which contained the furniture) unoccupied. Fires were lit regularly, to prevent dampness, and the rent was duly paid. In October the male plaintiff joined the Army, and he left the keys of the house with his mother. His sister continued to light fires at intervals, but on the 10th December the windows were found open and the furniture had gone. At a subsequent interview the manager of the defendants admitted having had the furniture removed, but contended that a right of removal had arisen. The case for the defendants was that, on the 8th December, the house was found by one of their collectors with the door open and the interior in a bad state. The furniture was accordingly removed into protective custody, to avoid damage in an unoccupied house. The plaintiff's mother and sister were accordingly told, at the interview, that the goods were in store awaiting the plaintiff's instructions. The goods would not have been removed, if the account had been kept up to date, and the male plaintiff's mother could not be traced, as the reference paper had been mislaid. His Honour Judge Finnemore gave judgment for the plaintiffs for both the amounts claimed, with costs. It is to be noted that, under the Hire-Purchase Act, 1938, s. 11 (2) (*a*), a cause of action for money had and received arises, at the suit of the hirer, if the owner recovers possession, otherwise than by action, of goods in respect of which one-third of the hire-purchase price has been paid. Under the Courts (Emergency Powers) Act, 1939, s. 1 (2) (*a*) (ii), a remedy by way of taking possession of any property can only be exercised with the leave of the court. Any breach of this provision gives rise to a claim for damages for trespass (compare *S. & A. Services, Ltd.* v. *Dickson* [1940] W.N. 233).

Possession of Abandoned Premises.

IN a recent case at Skegness County Court (*Leeson* v. *Roberts and Wife*) the claim was for £32 10s., arrears of rent, and for possession of a dwelling-house. The case for the plaintiff was that the premises were let for three years from the 25th March, 1939, at a rent of £65 a year, payable quarterly in advance. The rent had been paid up to Midsummer, 1939, but not subsequently. There was a proviso for re-entry in the event of the rent being fourteen days in arrear. Soon after the outbreak of war, the defendants left the house and removed most of the furniture, although some had been left behind. As the defendants could not be traced, notice of the application for leave to exercise the power of re-entry had been placed upon the front door of the property. The keys had not been returned to the plaintiff. His Honour Judge Langman gave judgment for the amount claimed, and an order was made for possession, with costs on Scale B. It is to be noted that the presence of furniture on the premises may exclude the latter from the operation of the Deserted Tenements Act, 1817, and the summary remedy thereunder will therefore not be available.

To-day and Yesterday.

LEGAL CALENDAR.

26 August.—While returning from market Mr. Robert Brough, a prosperous farmer, of Winkley, near Macclesfield, was set upon and murdered by his servant Norden, who gashed his nose and his wrist and nearly cut his head from his body. The pursuit, however, was quickly taken up and the assassin was captured. He was tried on the 26th August, 1731, at the Chester Assizes and condemned to be hanged in chains near the place of his crime.

27 August.—Anthony Cleasby, the son of an affluent London broker in the Russian trade, was born on the 27th August, 1804. The family took its name from a village four miles from Darlington, whence it had migrated in the middle of the seventeenth century. Anthony went to school first at Brook Green near Hammersmith, and later proceeded to Eton. Till his fifteenth year he was more remarkable for physical prowess and keenness as a cricketer than for any promise of academical distinction, but in 1819 the course of the life of the "active, yellow-haired boy" was completely changed. A chill caught at cricket, a fever, an abscess in the hip-joint, resulted in a year's dangerous illness and left him permanently lame, but he afterwards regarded it as one of his greatest blessings for it turned his mind to reading and study and set him on the road which led him to the place of a Baron of the Exchequer.

28 August.—Clement's Inn in the Strand was as peaceful and venerable as any of the old Inns of Chancery and the legal world must have been shocked when the murdered body of its principal, Mr. Penny, was found hidden in the privy there. On the 28th August, 1741, at the Old Bailey, James Hall, his servant, pleaded guilty to the crime, which he confessed he had for some time intended. One night he had knocked his master down and then, after stripping himself naked to prevent his clothing being stained, he had cut his throat.

29 August.—On the 29th August, 1667, Lord Clarendon's fall was near, yet Pepys recorded: "I find at Sir G. Carteret's that they do mightily joy themselves in the hopes of my Lord Chancellor's getting over this trouble and I make them believe, and so indeed I do believe he will, that my Lord Chancellor is become popular by it."

30 August.—Lord Clarendon, however, did not get over the trouble and on the morrow, the 30th August, the King sent to him for the Great Seal which he delivered up.

31 August.—Horace Avory was born at 3, Pitts Place, Bankside, Southwark, on the 31st August, 1851. He was the second son of Henry Avory, Clerk of Arraigns at the Central Criminal Court, with which he thus had a unique and life-long association. He first attended a dame's school in Southwark. A fellow-pupil there, who was afterwards associate of the Oxford Circuit, recalled how little Horace was always clean and sedate and joined in games reluctantly, retiring immediately they became rough and likely to spoil his clothes. Above all, never would he join in any amusement which might make him look ridiculous. Such was the child who became one of the gravest and most dreaded judges of his day.

1 September.—Sir Joseph Jekyll, Master of the Rolls, was buried in the Rolls Chapel in Chancery Lane on the 1st September, 1738. In the course of the twenty odd years in which he had filled his office he had at great expense rebuilt the Rolls House where he held his Court, destroying the old House of Converts originally built in the thirteenth century for Jews who adopted Christianity. The chapel, where he was eventually laid, survived till our own day when all was swept away to make room for the Record Office.

THE WEEK'S PERSONALITY.

When the messenger from the King arrived to require Lord Clarendon to deliver up the Great Seal he was employing it in sealing the formal proclamation of the Peace of Breda whereby the disastrous war with the Dutch was terminated. As soon as the ceremony was over he delivered it up, expressing submission to the royal will and saying he was glad that his last official act was to restore harmony between two nations which ought to be united. When the Seal was brought to Whitehall, Charles was in Lady Castlemaine's apartments surrounded by the Chancellor's enemies, one of whom exclaimed: "Sir, you are now a King." It was indeed true that since the Restoration Clarendon had wielded extraordinary power in the State, but he bore his reverse with firmness. His friends regarded his removal a disaster for they held that he was "a true Protestant and an honest Englishman and while he enjoys power we are secure of our laws, liberties and religion." Yet there was widespread rejoicing at his fall and before four months were out the threat of impeachment had forced him to fly the country. He owed his greatness to the extraordinary circumstances

of the English Revolution in which he was well fitted to play a leading part by his acute and vigorous understanding and unwearied industry.

UNEXPLAINED DETENTION.

In 1690 one John Bernardi was arrested for political reasons which seemed good to the authorities and lodged in Newgate "loaded with heavy irons and put into a dark and stinking apartment." When he was brought to court to be bailed out the Treasury Solicitor opposed his release and "whispered the judges on the Bench." On the pretext that further evidence against him must be collected a special Act of Parliament was passed to keep him in detention for another year. No charge was ever made against him, but successive Acts of Parliament were resorted to in order to keep him a prisoner. At the age of sixty-eight he married a devoted wife who bore him ten children within the walls of Newgate. He died still untried in 1736 after nearly fifty years in prison. And the moral of that is that when freedom from arbitrary arrest is at stake the courts and the people cannot be over-jealous of resort to statute to exclude the traditional right of resort to the Judges of England. We see to-day a multiplication of cases in which persons, some obscure, some well known, are indefinitely detained in prison, uncharged and untried. No doubt where admitted Fascists or Communists or enemy aliens are concerned the maxim *res ipsa loquitur* properly applies, but now that we have accustomed ourselves to the rhythm of war it seems only prudent in the case of the others to lay down some procedure (which could easily be devised) whereby the actual grounds of suspicion or worse could be submitted by proper evidence to the trained, impartial and discreet consideration of the judges in court, if possible, or in chambers, if public safety demanded it.

FACTS WANTED.

The infallibility of police officials and Government departments and the unimpeachable reliability of anonymous informers was never a principle of the common law. No case added more lustre to the reputation of Lord Carson than his fight through official obstructionism to secure the vindication of young Archer-Shee arbitrarily dismissed from Osborne for a theft he had not committed. To Ridley, J., he said: "The Crown can, I suppose, be high-handed out of court, but in open court it is not to be tolerated." Afterwards, recalling the scene in the Court of Appeal, he said: "I shall never forget how old Vaughan Williams who was a great lover of justice responded to my argument. 'Yes, yes,' he said, 'Where are the facts? We want the facts'."

Obituary.

MR. JUSTICE BRUCE.

Mr. Justice Thomas Dundas Hope Bruce, Judge of the Supreme Court, Gold Coast, died on Saturday, 27th July, at sea, as a result of enemy action, at the age of fifty-five. He was educated at Cheltenham and Brasenose College, Oxford, and, in 1910, was admitted a solicitor. In 1913 he became Crown Solicitor in Fiji. In 1922 he was appointed Resident Magistrate in Jamaica, and in 1925 was called to the Bar by Gray's Inn. From 1927 to 1936 he was Solicitor-General of Kenya, and from 1928 to 1936 was King's Proctor.

SIR FREDERICK BOURNE.

Sir Frederick Bourne, Judge of His Majesty's Supreme Court at Wei-hai-Wei from 1904 to 1916, died on Friday, 23rd August, at the age of eighty-six. He was called to the Bar by Lincoln's Inn in 1890, and, before his appointment at Wei-hai-Wei, he had been from 1901 to 1916 Assistant Judge of His Majesty's Supreme Court for China and Corea at Shanghai.

MR. W. O. WILLIS, K.C.

Mr. William Outhwaite Willis, K.C., died on Thursday, 22nd August. He was called to the Bar by the Inner Temple in 1895 and took silk in 1924.

MR. E. L. BILLSON.

Mr. Edgar Leicester Billson, solicitor, of Messrs. Oliver Jones, Billson & Co., solicitors, of 5, Cook Street, Liverpool, died on Monday, 19th August, at the age of seventy-one. Mr. Billson was admitted a solicitor in 1894. In 1925 he was elected President of the Liverpool Law Society, of which he had previously been honorary treasurer.

On Active Service.

ACTING SQUADRON LEADER M. F. PEACOCK, D.F.C.

Acting Squadron Leader Michael Fitzwilliam Peacock, D.F.C., barrister-at-law, previously reported missing, is now believed to have been killed in action in the Arras-Cambrai Sector in May, 1940. He was called to the Bar by the Middle Temple in 1936.

Notes of Cases.

JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

The Liquidator, Rhodesia Metals, Ltd. (in Liquidation) *v.* The Commissioner of Taxes.

Viscount Maugham, Lord Atkin, Lord Russell of Killowen, Lord Wright and Lord Porter. 27th May, 1940.

Revenue (Rhodesia)—Income tax—Income "from any source within the territory"—Profit in London on sale of mining claims in Rhodesia—Whether taxable—Ordinance of Southern Rhodesia (No. 20 of 1918), s. 4 (1).

Appeal from the Appellate Division of the Supreme Court of the Union of South Africa, affirming a decision of Hudson, J., in the High Court of Southern Rhodesia, dismissing an appeal by the liquidator of Rhodesia Metals, Ltd., from an assessment to income tax in the sum of £146,000 for the year ending the 31st March, 1936.

The assessment was made under Ordinance of Southern Rhodesia No. 20 of 1918, which provides for the levying of income tax in the territory. By s. 5: "... 'gross income' means the total amount other than receipts ... of a capital nature, received by ... any person ... in any year ... from any source within the territory ...". The appellant company were incorporated in November, 1935, as a private company with nominal capital of £10,000, of which £8,002 was issued, the chairman and a large shareholder being one Davis. On the same day St. Swithins Ores and Metals, Ltd., were incorporated as a private company with a nominal capital of £100,000. Davis was also chairman and a large shareholder in that company. On the 5th December, 1935, Davis sold a number of his mining claims in Southern Rhodesia to the St. Swithins company for £37,500; and on the 12th December, 1935, he sold certain other of his claims to the Rhodesia Metals company for £5,000 cash. On the 20th January, 1936, the St. Swithins company increased their capital by £200,000. On the 27th January, 1936, a special resolution was passed that Rhodesia Metals be wound up voluntarily. On the 5th February, 1936, the liquidator wrote to the St. Swithins company offering to sell the company's mining claims for £150,000 to be satisfied in fully paid shares. St. Swithins accepted by letter. On the 28th February, 1936, the liquidator wrote to St. Swithins offering in substitution for the agreement accepted to sell the whole undertaking of the company, including £2,180 in cash, subject to their liabilities, for cash and shares. On the 3rd March, 1936, St. Swithins wrote offering to buy the whole undertaking as offered for £152,000, payable as to £150,000 in fully paid shares and £2,000 in cash, and on the 5th March, 1936, by special resolution of the members of Rhodesia Metals it was resolved to accept the offer. The transaction was duly completed, and the mining claims were transferred on the register of Southern Rhodesia to the St. Swithins company. The head office and directorate of the Rhodesia company were in London, and the contract of sale was made and the consideration received there. The assessment on the Rhodesia company for the year ending the 31st March, 1936, included the sum so received from the St. Swithins company. The assessment was upheld by the courts in South Africa, and the company, by its liquidator, now appealed. (*Cur. adv. vult.*)

LORD ATKIN, giving the judgment of the Board, said that *prima facie* the sale by a liquidator of the whole undertaking of a company would result in a capital asset; but in the view of Hudson, J., Rhodesia Metals had acquired the claims as an operation of business for the purpose of developing and selling them in furtherance of a scheme of profit-making. As seen by Stratford, C.J., it was the culminating step in the scheme designed when the claims were bought and was made for the purpose of concluding the operation of profit-making which was on hand when the liquidation was commenced. There was ample evidence upon which the judges in South Africa could come to that conclusion, and on that point the appeal failed. It was, however, strenuously urged that the price received was not a receipt from a source in Southern Rhodesia. The respondent, it was said, was faced with a dilemma: the contention was that this was a capital sum; if so, the tax was clearly not exigible; but if it were not a capital sum, it would only be because it was the result of a business operation; if so, the only source was the business; and the place where the business was carried on was the source of the profit made by the business; and as there could only be one source for one business profit it was only necessary to see where the business was carried on which earned that profit; and that place was England where the head seat and directing power was situate, where both the contracts of purchase and sale were made, and where the consideration for the sale was in fact received. In support of that contention numerous cases were relied on, e.g., *Lovell and Christmas* v. *Commissioner of Taxes* [1908] A.C. 46 (New Zealand); *Maclean* v. *Eccott* [1928] A.C. 424 (England); *Studebaker Corporation* v. *Commissioner of Taxation for New South Wales* (1921), 29 C.L.R. 225 (Australia); and two South African cases, *Commissioner of Taxes* v. *Dunn*, S.A. Law Reports (1918), A.D. 607, and *Overseas Trust Corporation* v. *Commissioner for Inland Revenue*, S.A. Law Reports (1926), A.D. 444. Their lordships had no criticisms to make of any of those decisions, but decisions on the words of one statute were seldom of value in deciding on different words in another statute. Different business operations might give rise to different taxing results. For different taxing systems

income could plainly be derived from more than one source even where the source was business, for instance, in the case of the business of a railway company whose railway was situated abroad, as in *Sao Paulo (Brazilian) Railway Co., Ltd.* v. *Carter* [1896] A.C. 31. In the present case it was not necessary to formulate a definition which would afford a universal test of when an amount was "received from a source within the territory." Their lordships inclined to the view expressed in Ingram's work on Income Tax that source meant not a legal concept but something which a practical man would regard as a real source of income, and that the ascertaining of the actual source was a practical, hard matter of fact. The present was a case where the sole business operation of an English company was the purchase of immoveable property in Southern Rhodesia and its development in that territory for purposes of transfer in that territory at a profitable price. The company never adventured any part of its capital except on that or those immoveables. The only proper conclusion appeared to be that the company received the sum in question from a source within the territory—namely, the mining claims which they had acquired and developed there for the very purpose of obtaining the particular receipt. The appeal should be dismissed.

COUNSEL: *Tucker*, K.C., and *Donovan*; *Roland Burrows*, K.C., and *R. P. Hills*.

SOLICITORS: *Holmes, Son & Pott*; *A. F. & R. W. Tweedie*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

COURT OF APPEAL.

Scott *v.* Frank F. Scott (London), Ltd.

Scott, Clauson and Luxmoore, L.JJ. 27th June, 1940.

Company—Alleged mistake in articles of association—Jurisdiction of court to rectify articles—Companies (Consolidation) Act, 1908 (8 *Edw.* 7, *c.* 69), *ss.* 14, 243.

Appeal from Bennett, J. (84 SOL. J. 112).

The defendant company was incorporated in 1926 under the Companies Acts, 1908 to 1917, with a share capital of £10,500, divided into 10,200 preference and 300 ordinary shares of £1 each. Each of three brothers, A, B and C, was the registered holder of 100 ordinary shares. They were the sole signatories to the articles of association and the sole directors of the company. A having died in 1937, probate of his will was granted to the plaintiff, his widow. As his executrix she claimed to be placed on the register of the company in respect of A's 100 ordinary shares. B and C refused to procure her registration. In this action, to which the company and B and C were defendants, the plaintiff claimed a declaration that, on the true construction of the articles of association, she was entitled to be placed on the register. B and C counter-claimed for a declaration that, on the true construction of the articles, the plaintiff was bound to offer A's 100 ordinary shares to them. They further asked to have the articles rectified by the insertion of certain words to express the intention of the signatories of the articles. Bennett, J., held that, on the true construction of the articles, the plaintiff was not entitled to the declaration she sought. He further held that the court had no jurisdiction to rectify the articles of association of a company. The plaintiff appealed and there was a cross-appeal.

The judgment of the Court of Appeal (Scott, Clauson and Luxmoore, L.JJ.) was delivered by LUXMOORE, L.J., who, after allowing the appeal of the plaintiff on the construction of the articles, holding she was not bound to offer the shares to B and C, then said, dismissing the cross-appeal, that although articles of association were proved not to accord with the intention of the signatories, there was no jurisdiction to rectify. The principles upon which a court of equity rectified documents had no application to the memorandum or articles of association of a company. These, after being signed by the signatories, had to be registered in accordance with the statutory requirements, and thereafter they became binding on the company and its members, and constituted the charter of the company. There was the further question whether the plaintiff was entitled to have her name entered on the register as the holder of her husband's ordinary shares. As there was no power of veto given to the company by its articles, she was so entitled.

COUNSEL: *Spens*, K.C., and *A. F. M. Berkeley*; *Harman*, K.C., and *Winterbotham* (for *Gerald Upjohn*, on war service).

SOLICITORS: *Field, Roscoe & Co.*, for *Guy Williams & Co.*, Liverpool; *Layton & Co.*

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

King Features Syndicate, Inc. *v.* O. & M. Kleemann, Ltd.

Scott, Clauson and Luxmoore, L.JJ. 8th July, 1940.

Copyright—Sketches of a comic figure—Figure reproduced as a toy without the leave of the owner of the copyright—Infringement of copyright—Whether models made from the sketch registrable as a "design"—Copyright Act, 1911 (1 & 2 *Geo.* 5, *c.* 46), *ss.* 1, 22—*Patents and Designs Acts*, 1907 *to* 1932.

Appeal from Simonds, J. (84 SOL. J. 304).

The plaintiffs were the owners of the copyright in a series of drawings published in America and Canada and subsequently in this country depicting a grotesque and fictitious character known as "Popeye the Sailor." The publication of these sketches started in 1929 and had continued ever since. The plaintiffs had granted a number of licences to firms in this country to sell dolls and other fancy goods reproducing the figure of Popeye. The defendants, who were importers of toys, had applied for such a licence, but they refused the terms which were offered to them and proceeded to import from a Japanese firm a number of brooches, toys and dolls embodying the figure of Popeye. These they sold as "Popeye brooches," etc. In this action the plaintiffs sought an injunction to restrain the defendants from infringing their copyright by the reproduction and sale of brooches and toys reproducing Popeye and damages for the infringement and conversion. The defendants denied that they had infringed the plaintiffs' copyright. They contended that representations of Popeye were capable of being registered under the Patents and Designs Acts, 1907 to 1932, and therefore under s. 22, Copyright Act, 1911, they were not the subject of copyright. Section 22 of the Copyright Act, 1911, provides that "This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by an industrial process." Simonds, J., held that the plaintiff's sketches were not "designs" within the Patents and Designs Acts; they were therefore protected by the Copyright Act, 1911. He gave judgment in favour of the plaintiffs. The defendants appealed.

CLAUSON, L.J., in allowing the appeal, said he agreed with the learned judge below that the words of s. 1 of the Copyright Act, 1911, got rid of any difficulty there might be in treating a copy in three dimensions as an infringement of copyright in a sketch in two dimensions. The plaintiffs would, therefore, but for the provisions of s. 22 of the Act, be entitled to a declaration that the articles were an infringement of their copyright. The plaintiffs, however, had licensed various persons to reproduce models of the figure in question. Neither the plaintiffs nor their licensees had registered any model under the Patents and Designs Acts, 1907 to 1932, though they were qualified to register the model under the Acts. The models were in fact used by the plaintiffs' licensees as models or patterns to be multiplied by an industrial process. Such models were therefore within s. 22 and the Copyright Act, 1911, did not apply to them. The defendants could not be prevented from copying the designs. The appeal must be allowed and the action dismissed.

LUXMOORE, L.J., dissenting, said that he was unable to agree that the provisions of s. 22 had deprived the plaintiffs of their copyright in their designs.

SCOTT, L.J., concurred in allowing the appeal.

COUNSEL: *Shelley*, K.C., and *Marlow* (for *Russell-Clarke*, on war service), for the appellants; *Macgillivray*, K.C., and *Gahan*, for the respondents.

SOLICITORS: *Derick R. Martin & Co.*; *Shaen, Roscoe, Massey & Co.*

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

APPEALS FROM COUNTY COURTS.

Metropolis Estate Co., Ltd. *v.* Wilde.

MacKinnon and Luxmoore, L.JJ., and Tucker, J. 15th July, 1940.

Bankruptcy—Lease—Invalid disclaimer after discharge—Leave of court not obtained—Debts provable—Liability after discharge for rent due after proof—Bankruptcy Acts, 1914 *and* 1926 (4 & 5 *Geo.* 5, *c.* 59, *and* 16 & 17 *Geo.* 5, *c.* 7), *ss.* 28 (1) *and* (2) *and* 54 (1) *and* (3); *Bankruptcy Rules*, 1915, *r.* 276.

Appeal by defendant from a judgment for the plaintiff for £50 and costs given by the Common Serjeant at the Mayor's and City of London Court, on 17th April, 1940. The plaintiff's claim was for £50, being one quarter's rent of a flat at No. 74, Clifford's Inn, due in advance on 29th September, 1939, under a seven years' lease, dated 9th December, 1939, and commencing on 25th December, 1939. On 6th December, 1935, a petition in bankruptcy was presented against the defendant, and on 9th January, 1936, a receiving order was made. On 10th January, 1936, the defendant was adjudicated bankrupt, the Official Receiver being appointed the trustee in bankruptcy. On 30th June, 1936, the defendant obtained his discharge, subject to a suspension for twelve months, and his discharge therefore became effective on 30th June, 1937. The defendant had not disclosed to the Official Receiver his interest under the lease which in law vested in the Official Receiver on the adjudication. Consequently no steps were taken to deal with it, either by way of disclaimer or otherwise. The defendant for the first time disclosed to the lessors the facts relating to his bankruptcy in an affidavit which he filed in opposition to the lessors' application for leave to sign final judgment under Ord. XIV in the present action, which had been begun in the High Court. On 2nd February, 1940, the Official Receiver, as the defendant's trustee in bankruptcy, purported to disclaim the lease.

LUXMOORE, L.J., in giving the judgment of the court, said that there had been no valid disclaimer of the lease because there had been no compliance with s. 54 of the Bankruptcy Acts, 1914 and 1926. Subsection (1) provided: "The trustee . . . may, by writing signed by him, at any time within twelve months after the first appointment of a trustee, or such extended period as may be allowed by the court, disclaim" certain onerous property, "provided that, where any such property has not come to the knowledge of the trustee within one month after such appointment, he may disclaim such property at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the court." Subsection (3)

provided: "A trustee shall not be entitled to disclaim a lease without the leave of the court, except in any cases which may be prescribed by general rules, and the court may, before or on granting such leave, require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such orders with respect to fixtures, tenants' improvements and other matters arising out of the tenancy, as the court thinks just." Under r. 276 (1) of the Bankruptcy Rules, 1915, a lease might be disclaimed without the leave of the court in a number of specified cases not covering the defendant's interest, and by sub-r. (2): "Except as provided by this rule the disclaimer of a lease without the leave of the court shall be void." The attempted disclaimer of 2nd February, 1940, was therefore void, and the defendant's interest in the lease still remained vested in the Official Receiver, who appeared to remain liable for rent by way of privity of estate, but was under no liability in respect of the defendant's contract with the lessors (see *Hopkinson* v. *Lovering*, 11 Q.B.D. 92). With regard to the defendant's liability, a lessor seeking to prove against a bankrupt lessee's estate in respect of an existing lease could only prove for the arrears of rent due and the breaches of covenant which had taken place at the time of proof (see *In re New Oriental Bank Corporation* (*No.* 2) [1895] 1 Ch. 753). The defendant's discharge had therefore no effect with regard to future rent due under the lease, as s. 28 (2) of the Bankruptcy Acts, 1914 and 1926, provided that an order of discharge should release the bankrupt from all debts provable in bankruptcy, with certain exceptions specified in subs. (1) which were not material in the present case. Future rent was not a debt so provable, and consequently the liability for it remained unaffected in the defendant.

Appeal dismissed with costs.

COUNSEL: *I. H. Jacob; P. A. Devlin.*

SOLICITORS: *Arnold H. Finer; Bernard Ashley Hill.*

[Reported by MAURICE SHARE, Esq., Barrister-at-Law.]

HIGH COURT—CHANCERY DIVISION.

Re Milking Pail Farm Trusts; Robinson *v.* Tucker.

Farwell, J. 24th July, 1940.

Statutory trusts—Mortgage prior to 1926 *of undivided shares in land—Whether claim of mortgagees statute barred—Law of Property Act*, 1925 (15 *Geo.* 5, *c.* 20), *ss.* 12, 35, 1*st Sched., Pt. IV, para.* 1 (4).

In 1912 E and C were absolutely entitled as tenants in common in equal shares to certain freehold farms. In that year each made a will leaving her share to the other for life and on her death to G absolutely. E died in 1919. By a mortgage, dated the 9th September, 1921, G charged all his share and interest in the farms in reversion under the will of E, and the interest he expected to take under the will of C in favour of certain mortgages to secure £3,000. In 1922 G went bankrupt. The mortgagees under the charge of 1921 did not prove in his bankruptcy, but relied on their security. C died in 1923 and G in 1930. Under the transitional provisions contained in the Law of Property Act, 1925, the legal estate in the farms had vested in the Public Trustee upon the statutory trusts. He was never requested to act and the personal representative of C continued to collect the rents of the farm which he paid over to the trustee in bankruptcy of G. In 1939 the personal representative of E and C and the trustee in bankruptcy of G appointed the plaintiffs to be trustees of the farms in place of the Public Trustee for all the purposes of the statutory trusts .The plaintiffs as such trustees sold the farms for just over £2,000. By this summons they asked who were the persons entitled to the proceeds of sale and in what shares and proportions. The personal representatives of E and C, one of the mortgagees and the trustee in bankruptcy were defendants to the summons. The trustee in bankruptcy contended that the claim of the mortgagees was statute barred.

FARWELL, J., said that it was not necessary for him to decide whether there had been such an acknowledgment of the mortgagees' title as would prevent time running against them under s. 8 of the Real Property Limitation Act, 1874. Immediately upon the Law of Property Act, 1925, coming into operation the farms had, under Pt. IV, para. 1 (4) of the 1st Sched. of the Act of 1925, vested first in the Public Trustee and subsequently in 1939 in the plaintiffs as trustees upon the statutory trusts. The effect of s. 35 was that as from the 1st January, 1926, as between persons who were entitled to land in undivided shares no statute of limitations applied at all, because as from that date the proceeds of sale of the property were held upon an express trust: *Re Landi; Giorgi* v. *Landi* [1939] 1 Ch. 828. Section 12 of the Act did not prevent s. 35 having that effect. Section 35 in terms included an incumbrancer. It was therefore not possible to say that the decision in *Re Landi* did not apply. In these circumstances there was no statutory limitation to bar the claim of the mortgagees who were consequently entitled to the proceeds of sale.

COUNSEL: *Johnston; Turnbull; McMullan; A. G. Coulson.*

SOLICITORS: *Haslewood, Hare & Co.*, for *Bassel & Boucher*, Rochester; *Dollman & Pritchard*, for *Hayward, Smith & Mackey*, Rochester.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

In re Quirk; Public Trustee *v.* Quirk.

Morton, J. 26th July, 1940.

Will—Construction—Gift of freehold land in France "free of all death duties"—Whether devisee took free of French death duties.

The testator, by cl. 4 of his will, gave to his wife "free of all death duties my freehold land and messuage known as Clos Sainte Anne . . . in the Republic of France for her own absolute use and benefit." By cl. 7 he directed his executors to pay pecuniary legacies given by his will "including the duty on all legacies and annuities bequeathed free of duty." By cl. 10 he gave to his wife a life interest in a moiety of a trust fund and provided that should her income therefrom "be less than £1,200 net after the deduction of United Kingdom income tax" her income was to be made up to that sum out of the income of the other moiety of the fund. The testator died in October, 1939. He was then domiciled in England but ordinarily resident in Turkey. On his death a death duty, known as "droits de mutation par décès," became payable in France in respect of the French freeholds. No other duty was payable in respect of them. The trustees took out this summons for the determination of the question whether this French duty was payable out of the testator's estate or should be borne by his wife. It was agreed that the question should be decided on the footing that the French duty was the same as the duty payable in *In re Scott; Scott* v. *Scott* [1915] 1 Ch. 592.

MORTON, J., said that he was strengthened in his opinion that the words "free of all death duties" covered the French duty by the judgment of Phillimore, J., as he then was, in *In re Scott*, *supra*. Bennett, J.'s, decision in *In re Norbury; Norbury* v. *Fahland*, 83 SOL. J. 359; [1939] Ch. 528, was distinguishable as in that case he dealt with a legacy. The present case was concerned with a devise of immoveable property in a foreign country by a testator ordinarily resident abroad. The fact that in cl. 10 the testator referred to "United Kingdom income tax" was an indication that, when he wished to refer to something payable under the law of the United Kingdom, he did so specifically. The French duty was payable out of the testator's estate.

COUNSEL: *McMullan*, for the trustees; *Myles* (*H. Salt* with him), for the wife; *L. Morgan May*, for persons interested in residue; *Wigan*, for another person interested in residue.

SOLICITORS: *Pyke, Franklin & Gould; Guscotte, Wadham, Thurland and Howard.*

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

HIGH COURT—KING'S BENCH DIVISION.

Meiklejohn *v.* Campbell.

Macnaghten, J. 22nd April, 1940.

Slesser, Scott and Goddard, L.JJ. 9th May, 1940.

Arbitration—Deed of covenant—Production by covenantee of deed in cancelled state—Arbitrator's award on basis that deed valid—No evidence of circumstances of cancellation—Consequent absence of evidence on which to base award in favour of covenantee.

Motion to remit an award to an arbitrator on the ground of error on the face of it.

In March, 1929, a document was executed by which a Mrs. Meiklejohn undertook not to molest one Campbell, and the latter covenanted to make certain monthly payments to Mrs. Meiklejohn for the support of herself and her children. The document provided that disputes arising out of it should be referred to arbitration. Payments under the document having ceased in 1938, Mrs. Meiklejohn applied for arbitration, contending that Campbell had broken his covenant. The applicant having rested her case on the document and called upon the respondent to produce it, it was found to have been cancelled, and the respondent's signature to have been obliterated. No oral evidence was adduced before the arbitrator. Founding only upon the cancelled document, he awarded the respondent £700 as on a valid claim for arrears of the covenanted payments. The arbitrator, in order to avoid setting out his award in the form of a special case, set out the facts on which the respondent's contentions were based.

MACNAGHTEN, J., said that counsel for the respondent, citing *Falmouth* (*Earl*) v. *Roberts* (1842), 9 M. & W. 469, argued that, where a document apparently cancelled was produced in evidence, it was for the person producing the deed to show that it had not been cancelled in fact. Parke, B., had said (at p. 471) that the general rule undoubtedly was that where there appeared to be an alteration in the document it lay upon the party producing the document to explain the alteration. Counsel had also cited *Alsager* v. *Close* (1842), 10 M. & W. 576. The exact point raised in the present case appeared to have been raised there. Lord Abinger there asked whether it could be doubted that the production of a bond with the seals torn off was *prima facie* evidence of cancellation. The authority of that case had never been questioned. He (his lordship) had consulted the text-books, and he considered the case to be good law. Since the only evidence before the arbitrator was the deed in a cancelled state, that was *prima facie* evidence that the deed was void, and, in the absence of any evidence explaining the state in which the deed was, the arbitrator was bound in law to decide the dispute between the parties in favour of the respondent. Counsel for the applicant first argued that, even if the respondent's argument were right, there was no error of law appearing on the face of the award. That contention could not stand. *Hodgkinson* v. *Fernie* (1857), 3 C.B. (N.S.) 189, decided that the decision of an arbitrator was binding on the parties in matters both of law and of fact unless there had been fraud or corruption on his part, or there were some mistake of law apparent on the face of the award or of some paper accompanying and forming part of it. That decision, constantly acted on, had been

reaffirmed by the House of Lords in *British Westinghouse, etc., Co., Ltd.* v. *Underground, etc., Co., Ltd.* [1912] A.C. 673. It was then argued for the applicant that it was not for her to explain the cancellation of the document. It was true that the cancellation might have been by fraud, inadvertence, accident or mistake, or that the covenantee had entrusted the covenantor with the deed for the purpose not of its destruction but of its safe custody. It might be that the deed had been cancelled conditionally and that the condition had not been fulfilled. While all those things were possible, no such suggestion could be acted on unless there were some evidence to support it. Since there was no evidence to support any of the suggestions made on behalf of the applicant, the arbitrator was bound to act on the *prima facie* evidence that the deed was void. Counsel for the applicant raised the further point that, since the deed made provision for the applicant and her two children, it could not be cancelled except with the consent of the children or of someone on their behalf, they having been infants when the deed was executed, although *sui juris* at the date of the arbitration. Counsel relied on *Gandy* v. *Gandy* (1884), 30 Ch. D. 57. In his (his lordship's) opinion, the decision in that case was the exact contrary of counsel's contention. In any case, however, the children were no parties to the arbitration here, nor were they in any way bound by the arbitrator's decision. Being now *sui juris*, if they were advised that they had any enforceable right against the respondent, they could take the appropriate steps to enforce it. The award must go back to the arbitrator with the direction that there was no evidence on which to make an award in favour of the applicant. The applicant appealed.

SLESSER, L.J., giving the judgment of the Court of Appeal, said that the court were of opinion that Macnaghten, J.'s, order was right. He had exactly expressed the court's view of the correct application of the law. The appeal must be dismissed.

COUNSEL: *Raeburn; C. L. Henderson.*

SOLICITORS: *Cohen & Cohen; Simmons & Simmons.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Vrondissis *v.* Stevens.

Atkinson, J. 1st May, 1940.

Insurance (Marine)—Freight insurance—Exception for loss arising out of constructive total loss of vessel—Applicable only if actual loss unavoidable.

Preliminary point of law set down for argument under R.S.C., Ord. XXV, r. 2.

The plaintiff, a shipowner, took out a Lloyd's policy, subscribed by the defendant Stevens and others, against loss of freight. By an exceptions clause, in the event of constructive total loss of vessel the loss of freight arising from it was not recoverable. The plaintiff's steamer having left a port in North Russia with a cargo of timber for England shortly afterwards struck a reef and was so badly damaged that she had to be beached, and the voyage was abandoned. The plaintiff having claimed under the policy for loss of freight, the defendant repudiated liability on the ground that the steamer was a constructive total loss from which the loss of freight arose within the meaning of the exceptions clause. The plaintiff having brought an action to enforce his claim, an order was made that the question whether the claim was barred by the exceptions clause should be tried as a preliminary issue. For the purposes of the argument it was agreed that the steamer was a constructive total loss, but there was no agreement between the parties about how or why she had become a constructive total loss.

ATKINSON, J., said that he was left in doubt whether the ship was a constructive total loss because she was reasonably abandoned for the reason that actual total loss appeared inevitable, or because the cost of repairing her would have exceeded her value when repaired. The procedure under Ord. XXV, r. 2, was not very appropriate where so much was left in doubt and the court must consequently express on hypothetical facts a view which left the action still to be tried. In his opinion, if a ship became a total loss, and the owner could not perform his contract of carriage, his loss of freight was consequential on the loss of the ship and arose from it. If a ship were properly abandoned as a constructive total loss by reason that the actual loss appeared to be unavoidable, repair being physically impossible, again, in his opinion, any loss of freight was consequential on that constructive total loss of the ship, and might fairly be said to arise from it even though such a loss of ship was not necessarily followed by loss of freight; the disaster might happen so close to the port of discharge that the cargo might be saved in some other way. So, too, if the owner lost possession of the ship, as by capture by an enemy, and it was unlikely that he could recover it. Loss of freight arose from such loss, for example, in *Roura and Forgas* v. *Townend* [1919] 1 K.B. 189; but what was the position if a ship became a constructive total loss because, although repair was physically possible, the cost would exceed the value when so repaired and the ship was therefore abandoned to her underwriters and the freight was not in fact earned? Could it be said that the loss of freight arose from that constructive total loss? In *Carras* v. *London and Scottish Assurance Corporation, Ltd.* [1936] 1 K.B. 291, and *Kulukundis* v. *Norwich Union Fire Insurance Society* [1937] 1 K.B. 1, 80 SOL. J. 445; the Court of Appeal had made it quite clear that the question of commercial loss of freight depended on whether the charter-party under which it was to be earned was destroyed by perils of the sea. It was a question arising between shipowner and freighter, and was an entirely different question from that of the commercial loss of the ship. As between shipowner and hull underwriter commercial loss was established if it were proved that the cost of the complete repair of the ship, making no allowance for any general average contribution, was greater than the repaired value. As between shipowner and underwriter of freight, it was only if he could establish a commercial loss which would excuse him from the performance of the obligation as between him and the freighter that the shipowner could claim on his freight policy. The rule as to when a commercial loss was established between owner and freighter was not the same rule, or a branch of the same rule, as that which applied between owner and hull underwriter (see *per* Greene, L.J., in the *Kulukundis Case* [1937] 1 K.B., at p. 16). Loss of freight was established on proof that the costs of temporary repairs to the vessel sufficient to enable her to carry her cargo to its destination, less the estimated general average contribution to be made by the cargo, would have exceeded the repaired value of the ship. In his opinion, if it were the fact that the freight was lost in the present case because, although the ship could have been repaired and enabled to complete the voyage, yet it would have cost more to effect such temporary repairs, allowing for general average contribution, than the repaired value of the ship, that loss did not arise from the fact (if it were the fact) that the cost of permanent repairs, allowing nothing for general average contribution, would have exceeded the material sum. On the other hand, if it were not a matter of expense, if the ship could not have been rendered fit to complete the voyage with her cargo of timber, it might fairly be said that the loss of freight did, within the meaning of the clause, arise from the fact (if it were the fact) that there was a constructive total loss of the ship in the sense that total loss appeared to be unavoidable and that there was a physical impossibility of repair.

COUNSEL: *Cyril Miller* and *Stephen Murray; Sir Robert Aske, K.C.*, and *A. J. Hodgson.*

SOLICITORS: *Ince, Roscoe, Wilson & Glover; William A. Crump and Son.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Rules and Orders.

S.R. & O., 1940, No. 1521/L.24.

SUPREME COURT, ENGLAND.

PROCEDURE.

THE RULES OF THE SUPREME COURT (No. 5), 1940.

DATED AUGUST 19, 1940.

I, John Viscount Simon, Lord High Chancellor of Great Britain, in exercise of the powers conferred upon me by Section 1 of the Administration of Justice (Emergency Provisions) Act, 1939,* and of all other powers enabling me in this behalf, and with the concurrence of two other Judges of the Supreme Court, do hereby make the following Rules under Section 99 of the Supreme Court of Judicature (Consolidation) Act, 1925†:—

1. The following Rules shall be inserted in the Rules of the Supreme Court, 1883, after Order LIVH and shall stand as Order LIVJ:—

"ORDER LIVJ.

Procedure on Applications under Regulation 18AA *of the Defence (General) Regulations*, 1939.

1. Any application to the High Court under paragraph (4) of Regulation 18AA of the Defence (General) Regulations, 1939, shall be made in the Chancery Division by originating summons *inter partes*, and shall be intituled in the matter of the organisation by the name (if any) under which it is commonly known, and in the matter of the said Regulation.

2. In the absence of other sufficient representation, the court or a judge may appoint the Official Solicitor to represent any interests which in the opinion of the court or judge ought to be represented on any inquiry directed under the paragraph aforesaid.

3. The Rules of the Supreme Court for the time being in force and the practice and procedure of the Chancery Division shall apply."

2. These Rules may be cited as the Rules of the Supreme Court (No. 5), 1940.

Dated the 19th day of August, 1940.

Simon, C.

We concur,

Fairfax Luxmoore, L.J.
Charles A. Bennett,, J.

* 2 & 3 Geo. 6, c. 78. † 15 & 16 Geo. 5, c. 49.

S.R. & O., 1940, No. 1535/L.25.

SUPREME COURT, ENGLAND.

PROCEDURE.

THE RULES OF THE SUPREME COURT (SHORTHAND-WRITERS), 1940.

DATED AUGUST 21, 1940. [Price 2d. net.

Mr. ARCHIBALD HENRY DE BURGH HAMILTON, I.C.S., at present a Judge of the Oudh Chief Court, has been appointed Judge of the High Court of Judicature at Allahabad on the retirement in October of Sir Edward Bennet.

War Legislation.

(Supplementary List, in alphabetical order, to those published week by week in THE SOLICITORS' JOURNAL, *from the 16th September, 1939, to the 24th August, 1940.)*

PROGRESS OF BILLS.

ROYAL ASSENT.

The following Bills received the Royal Assent on Thursday, 22nd August :—

Finance (No. 2).
Isle of Man (Customs).
Agricultural (Miscellaneous War Provisions) (No. 2).
Allied Forces.

STATUTORY RULES AND ORDERS.

E.P. 1546. **Agricultural Contractors** (Registration and Control) (Amendment) Order, August 19.
No. 1518. **Chartered and other Bodies** (Traffic Commissioners) Order, August 10.
No. 1543. **Colonial Stock Acts Extension** (Zanzibar Protectorate) Order in Council, August 15, 1940.
E.P. 1508. **Conditions of Employment and National Arbitration Order** (Northern Ireland), August 9.
E.P. 1519. **Control of Communications** (Isle of Man) Order, August 19.
E.P. 1550. **Control of Molasses and Industrial Alcohol** (No. 9) Order, August 22.
E.P. 1513. **Control of Tins and Cans** (No. 2) Order, August 19.
E.P. 1501. **Defence** (Agriculture and Fisheries) Regulations, 1939. Amendment Order in Council, August 20.
E.P. 1514. Defence (Finance) Regulations, 1939. Order in Council, August 20, 1940, adding Regulation 2B.
E.P. 1516. Defence (Finance) Regulations (Isle of Man), 1939. Order in Council, August 20, 1940, adding Regulation 2B.
E.P. 1517. Defence (General) Regulations, 1939. Order in Council, August 20, 1940, adding Regulation 57B and amending Regulation 80A.
E.P. 1536. Defence (General) Regulations, 1939. Order in Council, August 20, 1940, adding Regulation 16B, and amending Regulations 16A, 29A, 29B, 32, 62BA and 102.
E.P. 1511. **Dried Peas, Beans and Lentils** (Control and Maximum Prices) Order, 1940. Amendment Order, August 17.
No. 1505/S.711. **Education Authorities** (Scotland) Grant Regulations Minute, July 11.
No. 1504/S.69. **Education** (Scotland) Miscellaneous Grants Regulations (Amendment) Minute, July 4.
E.P. 1548. **Employment of Aliens** in British Ships (No. 3) Order, August 22.
No. 1524. **Export of Goods** (Control) (No. 31) Order, August 20.
No. 1551. **Home Grown Oats** (Standard Price) Order, August 13.
E.P. 1529. **Home Produced Eggs** (Maximum Prices) (No. 2) Order, 1940. Amendment Order, August 21.
No. 1549. **Import of Goods** (Prohibition) (Live Animals) (No. 2) Order, August 23.
E.P. 1515. **Importation of Notes** (Exemptions) Order, August 21.
E.P. 1512. **Imported Cattle** (Marking) Order, 1940. Amendment Order, August 17.
No. 1520. **Income Tax.** Weekly Wage-Earners. Amending Regulations, August 19.
E.P. 1527. **Jam** (Maximum Prices) Order, August 20.
No. 1537. **National Service** (Armed Forces) (Prevention of Evasion) (Amendment) Regulations, August 17.
No. 1538. **Safeguarding of Industries** (Exemption) No. 12 Order, August 22.
No. 1522/S. 71. **Session,** Court of, Scotland. Act of Sederunt, July 19, 1940, anent Registration of Powers of Attorney in the Books of Council and Session Pursuant to the Evidence and Powers of Attorney Act, 1940.
No. 1523/S. 72. Session, Court of. Scotland. Act of Sederunt, July 17, 1940, continuing the Session.
E.P. 1542. **Specified Classes of Persons** (Registration) (No. 1) Order (Northern Ireland), August 5.
E.P. 1539. **Sugar** (Maximum Prices) Order, August 21.
No. 1521/L. 24. **Supreme Court Rules** (No. 5), August 19.
No. 1535/L. 25. Supreme Court, Rules (Shorthandwriters), August 21.
No. 1492. **Trade Boards** (Laundry Trade, Great Britain) (Constitution and Proceedings) Regulations, August 12.
No. 1544. **Trinidad and Tobago Prize Court** (Fees) (No. 2) Order in Council, August 15.
E.P. 1541. **Undertakings** (Inspection) Order (Northern Ireland), July 23.
No. 1533. **War Charities,** England and Wales, Regulations, August 15.
No. 1528. **Wheat** (Standard Price) Order, August 20.
No. 1525. **Wild Birds Protection** (County Borough of Birkenhead) Order, August 9.
No. 1526. Wild Birds Protection (Administrative County of Cambridge) Order, August 14.

[E.P. indicates that the Order is made under Emergency Powers.]

Copies of the above Bills, S.R. & O.'s, etc., can be obtained through The Solicitors' Law Stationery Society, Ltd., 22, Chancery Lane, London, W.C.2, and Branches.

Court Papers.

IN THE HIGH COURT OF JUSTICE—CHANCERY DIVISION.

EXTENSION OF TRINITY SITTINGS.

Rota of Registrars in attendance on

Date.	Court of Appeal.	Judge.
Sept. 2 ..	More	Andrews
,, 3 ..	Andrews	More
,, 4 ..	More	Andrews
,, 5 ..	Andrews	More
,, 6 ..	More	Andrews
,, 7 ..	Andrews	More

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (26th October, 1939) 2%. Next London Stock Exchange Settlement, Thursday, 12th September, 1940.

	Div. Months.	Middle Price 28 Aug. 1940.	Flat Interest Yield.	‡ Approximate Yield with redemption.
ENGLISH GOVERNMENT SECURITIES.			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	109	3 13 5	3 5 5
Consols 2½%	JAJO	73⅜	3 7 9	—
War Loan 3% 1955–59	AO	100¾	2 19 6	2 18 9
War Loan 3½% 1952 or after	JD	101	3 9 4	3 8 0
Funding 4% Loan 1960–90	MN	112	3 11 5	3 3 7
Funding 3% Loan 1959–69	AO	98	3 1 3	3 2 1
Funding 2½% Loan 1952–57	JD	97	2 16 8	2 19 8
Funding 2½% Loan 1956–61	AO	91⅛	2 14 9	3 1 4
Victory 4% Loan Average life 21 years	MS	109½xd	3 13 1	3 7 2
Conversion 5% Loan 1944–64	MN	109½	4 11 6	2 4 4
Conversion 3½% Loan 1961 or after ..	AO	100xd	3 10 0	3 10 0
Conversion 3% Loan 1948–53	MS	101	2 19 5	2 16 10
Conversion 2½% Loan 1944–49 ..	AO	98⅜xd	2 10 7	2 13 4
National Defence Loan 3% 1954–58 ..	JJ	100⅜	2 19 6	2 18 8
Local Loans 3% Stock 1912 or after ..	JAJO	86⅛	3 9 4	—
Bank Stock	AO	329	3 12 11	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	86	3 9 9	—
India 4½% 1950–55	MN	107½	4 3 9	3 11 1
India 3½% 1931 or after	JAJO	92	3 16 1	—
India 3% 1948 or after	JAJO	79½	3 15 6	—
Sudan 4½% 1939–73 Average life 27 years	FA	107	4 4 1	4 1 3
Sudan 4% 1974 Red. in part after 1950	MN	105	3 16 2	3 14 7
Tanganyika 4% Guaranteed 1951–71 ..	FA	105	3 16 2	3 8 1
Lon. Elec. T. F. Corpn. 2½% 1950–55 ..	FA	90	2 15 7	3 7 4
COLONIAL SECURITIES.				
•Australia (Commonwealth) 4% 1955–70	JJ	101	3 19 2	3 18 2
Australia (Commonwealth) 3½% 1964–74	JJ	88	3 13 10	3 17 10
Australia (Commonwealth) 3% 1955–58	AO	87	3 9 0	4 0 8
•Canada 4% 1953–58	MS	109½	3 13 1	3 2 0
New South Wales 3½% 1930–50 ..	JJ	94	3 14 6	4 5 8
New Zealand 3% 1945	AO	94½	3 3 6	4 7 10
Nigeria 4% 1963	AO	104	3 16 11	3 14 9
Queensland 3½% 1950–70	JJ	93	3 15 3	3 18 1
•South Africa 3½% 1953–73	JD	99⅛	3 10 4	3 10 6
Victoria 3½% 1929–49	AO	95	3 13 8	4 3 8
CORPORATION STOCKS.				
Birmingham 3% 1947 or after	JJ	79½	3 15 6	—
Croydon 3% 1940–60	AO	91½	3 5 7	3 12 1
Leeds 3½% 1958–62	JJ	94	3 9 2	3 13 1
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	92	3 16 1	—
London County 3% Consolidated Stock after 1920 at option of Corporation ..	MJSD	80	3 15 0	—
London County 3½% 1954–59	FA	100	3 10 0	3 10 0
Manchester 3% 1941 or after	FA	79½	3 15 6	—
Manchester 3% 1958–63	AO	91½	3 5 7	3 10 10
Metropolitan Consolidated 2½% 1920–49	MJSD	97	2 11 7	2 17 5
Met. Water Board 3% "A" 1963–2003	AO	82½	3 12 9	3 14 5
Do. do. 3% "B" 1934–2003 ..	MS	83½	3 11 10	3 13 5
Do. do. 3% "E" 1953–73 ..	JJ	88	3 8 2	3 12 7
Middlesex County Council 3% 1961–66	MS	91½	3 5 7	3 10 3
•Middlesex County Council 4½% 1950–70	MN	105½	4 5 4	3 15 4
Nottingham 3% Irredeemable	MN	80	3 15 0	—
Sheffield Corporation 3½% 1968 ..	JJ	97½	3 11 10	3 12 11
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS.				
Great Western Rly. 4% Debenture ..	JJ	102	3 18 5	—
Great Western Rly. 4½% Debenture ..	JJ	108½	4 2 11	—
Great Western Rly. 5% Debenture ..	JJ	112½	4 8 11	—
Great Western Rly. 5% Rent Charge ..	FA	109½	4 11 4	—
Great Western Rly. 5% Cons. Guaranteed	MA	105½	4 14 9	—
Great Western Rly. 5% Preference ..	MA	79	6 6 7	—

• Not available to Trustees over par.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.